

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

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| IN RE: ETHICON PHYSIOMESH FLEXIBLE COMPOSITE HERNIA MESH PRODUCTS LIABILITY LITIGATION | MDL DOCKET NO. 2782 CIVIL ACTION NO. 1:17-md-02782-RWS |
| THIS DOCUMENT RELATES TO ALL CASES | |

**PRETRIAL ORDER
(Order Re: Qualified Settlement Fund)**

Pending is an unopposed Motion to Establish a Qualified Settlement Fund, filed September 20, 2021. Plaintiffs' Co-Lead Counsel, as counsel for certain plaintiffs in this MDL No. 2782 has moved the Court for entry of an Order to aid in the efficient processing and administration of a Confidential Settlement Agreement (the "Settlement Agreement") between Defendants and Plaintiffs' Co-Lead Counsel on behalf of certain plaintiffs with cases pending before this Court to resolve the claims of certain claimants against Defendants relating to the implant of Physiomes h hernia repair product (as defined in the Settlement Agreement). In particular, Plaintiffs' Motion seeks an Order (1) approving the terms and conditions of an

escrow agreement which forms a settlement escrow account, (2) retaining continuing jurisdiction and supervision over the settlement escrow, and (3) determining that the settlement escrow constitutes a “qualified settlement fund” within the meaning of section 468B of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation sections 1.468B-1, *et. seq.*

The Court, having reviewed the Motion and supporting Memorandum filed under seal, and finding good and sufficient cause, **FINDS** and **ORDERS** the following:

- 1) The terms of the escrow agreement are hereby approved;
- 2) The settlement escrow constitutes a qualified settlement fund within the meaning of section 468B of the Internal Revenue Code of 1986, as amended (“the Code”) and Treasury Regulation sections 1.468B-1, *et. seq.* The Court further retains continuing jurisdiction and supervision over the settlement escrow, in accordance with the terms of the escrow agreement; and
- 3) The appointment of Wells Fargo National Bank to serve as the escrow agent (“Escrow Agent”) pursuant to the escrow agreement is approved. The Escrow Agent shall administer the settlement escrow in accordance with the terms of the escrow agreement and the terms set forth in the Motion and supporting Memorandum. Further, the funds held by the Escrow Agent in the settlement escrow shall be disbursed by the Escrow Agent only pursuant to and in conformance with

the terms of the escrow agreement and Settlement Agreement as outlined in the Motion and Memorandum, which include provisions for payments into the MDL No. 2782 Fund.

The court **DIRECTS** the Clerk to file a copy of this order in 1:17-md-02782, and it shall apply to each member related case previously transferred to, removed to, or filed in this district *where applicable*, which includes counsel in all member cases up to and including civil action number 1:21-cv-2014. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.gand.uscourts.gov.

ENTER: Sept 20, 2021

A handwritten signature in black ink, appearing to read "Richard W. Story", written over a horizontal line.

RICHARD W. STORY
UNITED STATES DISTRICT JUDGE